

Gr 1652

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 05 2002

In re PATENT APPLICATION of

TILG et al.



Group Art Unit: TBA

TECH CENTER 1600/2900

Appln. No.: 10/624,370

Examiner: TBA

Filed: December 21, 2001

Title: PROCESS FOR THE PREPARATION OF L-AMINO ACIDS BY FERMENTATION
AND NUCLEOTIDE SEQUENCES CODING FOR THE accDA GENE

#9
MSJ
9/23/02

* * * * *

August 30, 2002

SUBMISSION OF SUBSTITUTE DECLARATION

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

Applicants hereby submit the attached Substitute Declaration in the above-identified application. The original Declaration had a defect in the name of one of the inventors. Applicants respectfully request that the attached Substitute Declaration be entered.

Respectfully submitted,

PILLSBURY WINTHROP, LLP

By

Richard A. Steinberg

Reg. No.: 26,558

Tel. No.: (703) 905-2039

Fax No.: (703) 905-2500

RAS/amx
1600 Tysons Boulevard
McLean, VA 22102
(703) 905-2000

Enclosure: Substitute Declaration

FOR UTILITY/DESIGN
CIP/PCT NATIONAL/PLANT
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL
DECLARATIONS

RULE 63 (37 C.F.R. 1.56)
DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION
TO THE UNITED STATES PATENT AND TRADEMARK OFFICE

PW
FORM

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the **INVENTION ENTITLED: PROCESS FOR THE PREPARATION OF L-AMINO ACIDS BY FERMENTATION AND NUCLEOTIDE SEQUENCES CODING FOR THE accDA GENE**

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the specification of which (CHECK applicable BOX(ES))
X A. ☐ is attached hereto.
BOX(ES) → B. ☒ was filed on December 21, 2001 as U.S. Application No. 10/024,370
→ C. ☐ was filed as PCT International Application No. PCT/ / on
and (if applicable to U.S. or PCT application) was amended on December 21, 2001, April 2, 2002

SEP 05 2002

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment filed above. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. Except as noted below, I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International Application which designated at least one other country than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT International Application, filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing date of this application:

PRIOR FOREIGN APPLICATION(S)			Date first Laid- open or Published	Date Patented or Granted	Priority NOT Claimed
Number	Country	Day/MONTH/Year Filed			
199 24 365.4	Germany	27/May/1999			

If more prior foreign applications, X box at bottom and continue on attached page.
Except as noted below, I hereby claim domestic priority benefit under 35 U.S.C. 119(e) or 120 and/or 365(c) of the indicated United States applications listed below and PCT international applications listed above or below and, if this is a continuation-in-part (CIP) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of each such prior application and the national or PCT international filing date of this application:

PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S)	Status	Priority NOT Claimed
Application No. (series code/serial no.)	Day/MONTH/Year Filed	pending, abandoned, patented

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint Pillsbury Winthrop LLP, Intellectual Property Group, telephone number (703) 905-2000 (to whom all communications are to be directed), and persons of that firm who are associated with USPTO Customer No. 909 (see below label) individually and collectively my attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent, and I hereby authorize them to delete from that Customer No. names of persons no longer with their firm, to add new persons of their Firm to that Customer No., and to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct the above Firm and/or an attorney of that Firm in writing to the contrary.

USE ONLY FOR
PILLSBURY WINTHROP



00909

(Customer No. for communications)

(1) INVENTOR'S SIGNATURE: *Yvonne Tilg* Date: 07/22/02

Name	Yvonne	TILG
First	Middle Initial	Family Name
Residence	Wuppertal	Germany
City	State/Foreign Country	Country of Citizenship
Mailing Address	Schönebecherstraße 71, Wuppertal, Germany	
(include Zip Code)	42283	

(2) INVENTOR'S SIGNATURE: Date:

Name	Bernhard	EIKMANN
First	Middle Initial	Family Name
Residence	Ulm	Germany
City	State/Foreign Country	Country of Citizenship
Mailing Address	Glisseletten 49, Ulm, Germany	
(include Zip Code)	D-89081	

☒ FOR ADDITIONAL INVENTORS see attached page.
☐ See additional foreign priorities on attached page (incorporated herein by reference).
Atty. Dkt. No. P0284139
(M#)

FOR UTILITY/DESIGN
CIP/PCT NATIONAL/PLANT
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL
DECLARATIONS

RULE 63 (37 C.F.R. 1.63)
DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION
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FORM

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the specification of which (CHECK applicable BOX(ES))
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→ ☐ C. ☐ was filed as PCT International Application No. PCT/ / on
and (if applicable to U.S. or PCT application) was amended on December 21, 2001, April 2, 2002

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. Except as noted below, I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International Application which designated at least one other country than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT International Application, filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing date of this application:

PRIOR FOREIGN APPLICATION(S)

Number	Country	Day/MONTH/Year Filed	Date first Laid-open or Published	Date Patented or Granted	Priority NOT Claimed
199 24 365.4	Germany	27/May/1999			

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If more prior foreign applications, X box at bottom and continue on attached page.

Except as noted below, I hereby claim domestic priority benefit under 35 U.S.C. 119(e) or 120 and/or 365(c) of the indicated United States applications listed below. PCT international applications listed above or below and, if this is a continuation-in-part (CIP) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of each such prior application and the national or PCT international filing date of this application:

PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S)

Application No. (series code/serial no.)	Day/MONTH/Year Filed	Status	Priority NOT Claimed
		pending, abandoned, patented	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint Pillsbury Winthrop LLP, Intellectual Property Group, telephone number (703) 905-2000 (to whom all communications are to be directed), and persons of that firm who are associated with USPTO Customer No. 909 (see below label) individually and collectively my attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent, and I hereby authorize them to delete from that Customer No. names of persons no longer with their firm, to add new persons of their firm to that Customer No., and to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct the above firm and/or an attorney of that firm in writing to the contrary.

USE ONLY FOR
PILLSBURY WINTHROP



00909

(Customer No. for communications)

(1) INVENTOR'S SIGNATURE:

Date:

Name	Yvonne	TILG
First	Middle Initial	Family Name
Residence	Mettmann	Germany
City	State/Foreign Country	Country of Citizenship
Mailing Address	Heideweg 17, Mettmann, Germany	
(include Zip Code)	D-40822	

(2) INVENTOR'S SIGNATURE:

Date:

Name	Bernhard	EIKMANN
First	Middle Initial	Family Name
Residence	Ulm	Germany
City	State/Foreign Country	Country of Citizenship
Mailing Address	Gleisseletten 49, Ulm, Germany	
(include Zip Code)	D-89081	

☒ FOR ADDITIONAL INVENTORS see attached page.

☐ See additional foreign priorities on attached page (incorporated herein by reference).

Atty. Dkt. No. P0284139

(M#)

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AUG 30 2002

DECLARATION AND POWER OF ATTORNEY

(continued)

ADDITIONAL INVENTORS:

(3) INVENTOR'S SIGNATURE:

Date:

7/11/02 TECH CENTER 1600/2900

Lothar		EGGELING	
First		Family Name	
Residence	Julich	Germany	Germany
City		State/Foreign Country	Country of Citizenship
Mailing Address		Eisenkamp 6, Julich, Germany	
(include Zip Code)		D-52428	

(4) INVENTOR'S SIGNATURE:

Date:

7/10/02

Hermann		SAHM	
First		Family Name	
Residence	Julich	Germany	Germany
City		State/Foreign Country	Country of Citizenship
Mailing Address		Wendelinusstrasse 71, Julich, Germany	
(include Zip Code)		D-52428	

(5) INVENTOR'S SIGNATURE:

Date:

Bettina		MÖCKEL	
First		Family Name	
Residence	Bielefeld	Germany	Germany
City		State/Foreign Country	Country of Citizenship
Mailing Address		Mittelstrasse 15, Bielefeld, Germany	
(include Zip Code)		D-33602	

(6) INVENTOR'S SIGNATURE:

Date:

First		Family Name	
Residence			
City		State/Foreign Country	Country of Citizenship
Mailing Address			
(include Zip Code)			

(7) INVENTOR'S SIGNATURE:

Date:

First		Family Name	
Residence			
City		State/Foreign Country	Country of Citizenship
Mailing Address			
(include Zip Code)			

(8) INVENTOR'S SIGNATURE:

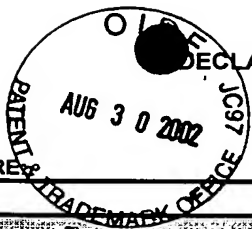
Date:

First		Family Name	
Residence			
City		State/Foreign Country	Country of Citizenship
Mailing Address			
(include Zip Code)			

(9) INVENTOR'S SIGNATURE:

Date:

First		Family Name	
Residence			
City		State/Foreign Country	Country of Citizenship
Mailing Address			
(include Zip Code)			



DECLARATION AND POWER OF ATTORNEY

(continued)

ADDITIONAL INVENTORS:

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SEP 05 2002

TECH CENTER 1600/2900

(3) INVENTOR'S SIGNATURE:

Date:

Lothar		EGGELING	
First	Middle Initial	Family Name	
Residence	Julich	Germany	Germany
City	State/Foreign Country		Country of Citizenship
Mailing Address	Elsenkamp 6, Julich, Germany		
(include Zip Code)	D-52428		

(4) INVENTOR'S SIGNATURE:

Date:

Hermann		SAHM	
First	Middle Initial	Family Name	
Residence	Julich	Germany	Germany
City	State/Foreign Country		Country of Citizenship
Mailing Address	Wendelinusstrasse 71, Julich, Germany		
(include Zip Code)	D-52428		

(5) INVENTOR'S SIGNATURE:

Date: 07/13/2002

Bettina		MÖCKEL	
First	Middle Initial	Family Name	
Residence	Bielefeld	Germany	Germany
City	State/Foreign Country		Country of Citizenship
Mailing Address	Mittelstrasse 15, Bielefeld, Germany		
(include Zip Code)	D-33602		

(6) INVENTOR'S SIGNATURE:

Date:

First	Middle Initial	Family Name	
Residence			
City	State/Foreign Country		Country of Citizenship
Mailing Address			
(include Zip Code)			

(7) INVENTOR'S SIGNATURE:

Date:

First	Middle Initial	Family Name	
Residence			
City	State/Foreign Country		Country of Citizenship
Mailing Address			
(include Zip Code)			

(8) INVENTOR'S SIGNATURE:

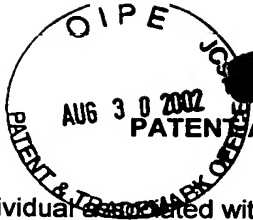
Date:

First	Middle Initial	Family Name	
Residence			
City	State/Foreign Country		Country of Citizenship
Mailing Address			
(include Zip Code)			

(9) INVENTOR'S SIGNATURE:

Date:

First	Middle Initial	Family Name	
Residence			
City	State/Foreign Country		Country of Citizenship
Mailing Address			
(include Zip Code)			



Rule 56(a) & (b) = 37 C.F.R. 1.56(a) & (b)
PATENT AND TRADEMARK CASES - RULES OF PRACTICE
DUTY OF DISCLOSURE

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TECH CENTER 1600/2900

- (a) ...Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the [Patent and Trademark] Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability... (b) information is material to patentability when it is not cumulative and (1) It also establishes by itself, or in combination with other information, a prima facie case of unpatentability of a claim or (2) refutes, or is inconsistent with, a position the applicant takes in: (i) Opposing an argument of unpatentability relied on by the Office, or (ii) Asserting an argument of patentability

PATENT LAWS 35 U.S.C.

§102. Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless—

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months* before the filing of the application in the United States, or
- (e) the invention was described in
 - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
 - (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a); or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g)
 - (1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or
 - (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

§103. Condition for patentability; non-obvious subject matter

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. . . .
- (c) Subject matter developed by another person, which qualified as prior art only under one or more of subsections (e), (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

* Six months for Design Applications (35 U.S.C. 172).